


Date of Deposit:

December 23, 2015

I hereby certify that this paper and fee is being deposited with the United States Postal Service under 37 C.F.R. 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Trademarks, United States Patent and Trademark Office, Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313-1451

  
Sharon Ptak-Miles

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Kraft Foods Group Brands LLC	)	
	)	
Opposer,	)	
	)	Serial No. 86-583514
v.	)	
	)	
Luo Shengyong.	)	
	)	
Applicant,	)	

**NOTICE OF OPPOSITION**

Assistant Commissioner for Trademarks  
United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir:

In the matter of the trademark application of Luo Shengyong for registration of the mark JELLO in Class 25 for "aprons; bathing trunks; beach coverups; boas; caps; dresses; footwear; girdles; gloves; hosiery; jackets; jumper dresses; knit shirts; leggings; neckties; pullovers; pyjamas; scarves; shawls; shirts; skirts; skorts; sleep masks; sleeping garments; sports jerseys; suits; swimsuits; tee shirts; tights; trousers;

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underclothing; underpants; underwear; waistcoats”, Application No. 86-583514, filed April 1, 2015, and published in the *Official Gazette* of August 25, 2015:




Opposer, Kraft Foods Group Brands LLC, a Delaware Limited Liability Company, believes it will be damaged by registration of the mark shown in the application and, therefore opposes the registration of this trademark.

As grounds for this opposition, Opposer states as follows:

**CLAIM – SECTION 2(d)**

1. For over a hundred years prior to Applicant's filing date, Opposer and its predecessors have been engaged in the manufacture and sale of food products throughout the United States, including multiple varieties of gelatin, desserts, and dessert mixes, under the JELL-O trademark. Opposer's date of first use of the JELL-O mark extends back to 1897.
2. By virtue of the long history of extensive promotional activities and sales thereof, the JELL-O marks have gained a tremendous amount of goodwill such that the public has come to identify the business and products denominated by the JELL-O marks as those of Opposer. The JELL-O marks acquired this goodwill long before the filing date set forth in the Applicant's application.
3. By virtue of Opposer's long use, extensive sales, advertising, and promotional efforts, Opposer's JELL-O trademark is distinctive and famous. The JELL-O trademark achieved that distinctiveness and fame prior to the filing date set forth in Applicant's application.
4. Opposer owns the following registrations in the United States Patent and Trademark Office for the JELL-O trademark, including:

Trademark	Status/Key Dates	Full Goods/Services	Owner
<u>JELL-O</u>  RN: 250035 SN: 71266480	Renewed November 27, 2008  Int'l Class:046 First Use:March, 1897  Filed: May 16, 1928 Application Published: August 28, 1928 Registered: November 27, 1928 Last Renewal: November 27, 2008	(Int'l Class: 046) gelatin dessert	Kraft Foods Group Brands LLC (Delaware Limited Liability Company) Three Lakes Drive Northfield Illinois 60093
<u>JELL-O</u>  RN: 936195 SN: 72394483	Renewed June 20, 2012  Int'l Class:046 First Use:August 21, 1970  Filed: June 10, 1971 Application Published: April 4, 1972 Registered: June 20, 1972 Last Renewal: June 20, 2012	(Int'l Class: 046) ready-to-eat pudding	Kraft Foods Group Brands LLC (Delaware Limited Liability Company) Three Lakes Drive Northfield Illinois 60093
<u>JELL-O</u>  RN: 2140363 SN: 75194276	Renewed March 3, 2008  Int'l Class:30 First Use:August 23, 1996  Filed: November 6, 1996 Application Published: December 9, 1997 Registered: March 3, 1998 Last Renewal: March 3, 2008	(Int'l Class: 30) cheesecake	Kraft Foods Group Brands LLC (Delaware Limited Liability Company) Three Lakes Drive Northfield Illinois 60093
<u>JELL-O</u>  RN: 2093731 SN: 75133207	Renewed September 2, 2007  Int'l Class:21 First Use:January, 1993  Filed: July 12, 1996 Application Published: January 21, 1997 Registered: September 2, 1997 Last Renewal: September 2, 2007	(Int'l Class: 21) molds and cutters for shaping gelatin	Kraft Foods Group Brands LLC (Delaware Limited Liability Company) Three Lakes Drive Northfield Illinois 60093

Trademark	Status/Key Dates	Full Goods/Services	Owner
<u>JELL-O</u>  RN: 2140238 SN: 75159809	Renewed March 3, 2008  Int'l Class:30 First Use:1967  Filed: September 3, 1996 Application Published: December 9, 1997 Registered: March 3, 1998 Last Renewal: March 3, 2008	(Int'l Class: 30) dessert mixes consisting primarily of cheesecake mix, pie mix or pudding mix	Kraft Foods Group Brands LLC (Delaware Limited Liability Company) Three Lakes Drive Northfield Illinois 60093
<u>JELL-O (Stylized)</u>    RN: 3030078 SN: 78235036	Registered 8 & 15 February 2, 2012  Int'l Class:30 First Use:March, 2004  Filed: April 8, 2003 Application Published: July 6, 2004 Registered: December 13, 2005	(Int'l Class: 30) sweetened and flavored gelatin and pudding	Kraft Foods Group Brands LLC (Delaware Limited Liability Company) Three Lakes Drive Northfield Illinois 60093
<u>JELL-O and Design</u>    RN: 3999328 SN: 85026524	Registered July 19, 2011  Int'l Class:30 First Use:August 31, 2010  Filed: April 29, 2010 Application Published: September 28, 2010 Registered: July 19, 2011	(Int'l Class: 30) sweetened and flavored gelatin desserts; ready to eat pudding desserts; dessert mixes consisting primarily of gelatin mix and pudding mix	Kraft Foods Group Brands LLC (Delaware Limited Liability Company) Three Lakes Drive Northfield Illinois 60093
<u>JELL-O and Design</u>    RN: 2963531 SN: 78240401	Renewed June 21, 2015  Int'l Class:30 First Use:January 31, 2004  Filed: April 22, 2003 Application Published: September 21, 2004 Registered: June 21, 2005 Last Renewal: June 21, 2015	(Int'l Class: 30) flavored gelatin and pudding	Kraft Foods Group Brands LLC (Delaware Limited Liability Company) Three Lakes Drive Northfield Illinois 60093

Said registrations are maintained on the Principal Register by the United States Patent and Trademark Office and are valid and subsisting in the name of Opposer.

5. Opposer's Registration Nos. 250,035; 936,195; 2,093,731; 2,140,238; 2,140,363; 2,963,531; and 3,030,078 have become incontestable under 15 U.S.C. §1065 and the certificates of registration thereof constitute "conclusive evidence of the validity of the registered marks[s] and of the registration of the marks[s], of the registrant's ownership of the mark[s], and of the registrant's exclusive right to use the registered mark[s] in commerce." 15 U.S.C. §1065(b).
6. Applicant has applied to register JELLO for "aprons; bathing trunks; beach coverups; boas; caps; dresses; footwear; girdles; gloves; hosiery; jackets; jumper dresses; knit shirts; leggings; neckties; pullovers; pyjamas; scarves; shawls; shirts; skirts; skorts; sleep masks; sleeping garments; sports jerseys; suits; swimsuits; tee shirts; tights; trousers; underclothing; underpants; underwear; waistcoats" in Class 25.
7. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant has any basis for claiming rights in the JELL-O trademark prior to Opposer's first use of its JELL-O mark.
8. Registration of the JELLO mark by Applicant in connection with its applied-for goods is likely to cause confusion or mistake or deceive consumers or potential consumers with respect to the JELL-O trademark and Opposer and is likely to cause purchasers and others to erroneously believe that the goods offered by Applicant under its confusingly similar mark are in fact those of Opposer, or are legitimately related to or are associated with or sponsored by Opposer, thereby creating a likelihood of confusion, mistake, or deception.

**CLAIM FOR RELIEF FOR DILUTION UNDER 15 U.S.C. §§ 1052(f), 1063**

9. Opposer repeats and realleges paragraphs 1 through 8 as if fully set forth herein.
10. Pursuant to 15 U.S.C. §§ 1052(f) and 1063, trademark applications may be opposed on grounds of dilution.
11. Opposer's JELL-O mark is famous and well-known throughout the United States having been used, advertised and publicized extensively for over 100 years. The JELL-O mark is inherently distinctive, is associated exclusively with Opposer by reason of Opposer's extensive advertising and use of the mark for over a century, is the subject of numerous incontestable federal trademark registrations, and is widely recognized by the general consuming public as a designation of source of Opposer's goods.
12. Applicant's filing date for JELLO in April of 2015 is long after Opposer's JELL-O trademark became famous.
13. Applicant's applied-for-mark, JELLO, is identical except for the hyphen, to Opposer's famous, registered, and long-used JELL-O mark. By virtue of the identical nature of the JELLO mark shown in the application in both sound and appearance, the fame of Opposer's JELL-O mark and the exclusive association between the JELL-O mark and Opposer, allowing the registration of the mark at issue would dilute or is likely to dilute Opposer's JELL-O mark by impairing the distinctiveness of Opposer's JELL-O mark to identify exclusively goods only from Opposer in violation of Section 2(f) of the Lanham Act, 15 U.S.C. § 1052(f).
14. Registration of the mark shown in the application herein opposed would be inconsistent with Opposer's prior rights in the JELL-O mark and with Opposer's statutory grant of exclusive rights in the JELL-O mark, and would destroy Opposer's investment and goodwill in its JELL-O mark.
15. By reason of the foregoing, Opposer is likely to be harmed by registration of the mark shown in the application.

Wherefore, Opposer believes it will be damaged by the registration of the claimed trademark in Application Serial No. 86-583514 in Class 25 and requests that such registration be denied.

The Trademark Trial and Appeal Board is authorized to charge the opposition filing fee in the amount of \$300 (or such other or additional fee that is required), to oppose this application to Opposer's Deposit Account No. 505911.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sabrina J. Hudson", is written over a horizontal line.

Sabrina J. Hudson, Esq.  
Kraft Foods  
200 East Randolph Street  
Chicago, IL 60601  
412-456-6004

Dated: December 23, 2015

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of December, 2015, I caused a true and correct copy of the foregoing NOTICE OF OPPOSITION to be served by prepaid, First Class U.S. mail upon the Applicant by serving its correspondent of record as listed in the records of the USPTO as shown in TSDR:

Liu Xiao  
401 North Tryon Street #1132  
Charlotte, N.C. 28202-2196

A handwritten signature in cursive script, appearing to read "Shawn H. Miles", is written below the address.